

INSIGHT

How and why to use caveats in Scotland

All businesses with interests in Scotland should consider lodging caveats as protection in the event of an interdict (injunction) action or insolvency proceedings being raised against them

Caveats are an early-warning mechanism unique to Scotland. We recommend all businesses with interests in Scotland consider lodging them, as should some individuals and other organisations such as charities.

Caveats provide the opportunity to defend yourself against certain court applications made against you. Without a caveat, a court order could be made without any prior warning and without your knowledge, and you could suffer financial or reputational damage.

What are caveats?

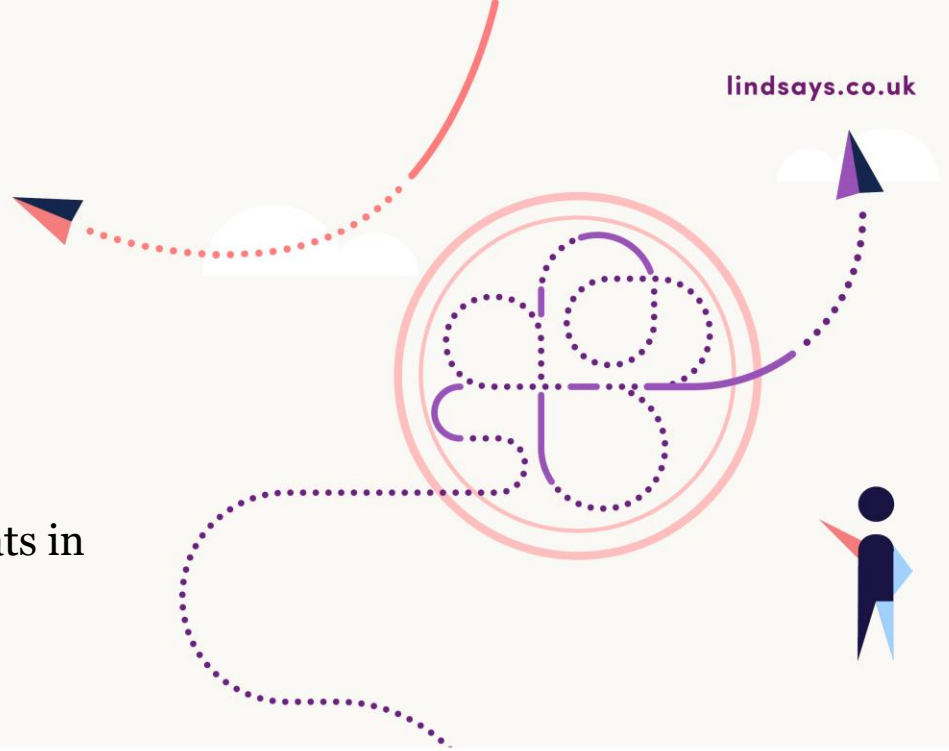
Caveats can be lodged at each [Sheriff Court](#) and at the [Court of Session](#). They can be lodged on behalf of individuals, companies and other legal entities.

Caveats may be renewed annually at little cost. We generally recommend that organisations lodge a caveat at the relevant Sheriff Court - for example, close to their headquarters or other locations where they operate.

Our team can advise on this, and lodge the caveats for you at the courts you want to be covered. We can also let you know when they are due for renewal.

How do they work?

When a caveat is in place, the relevant court must notify you (or your solicitor) if any third party attempts to obtain particular court orders, e.g. an interim



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interdict against you – these could relate to insolvency matters, employment issues or property disputes, for example.

Being notified about the attempt means you may have an opportunity to negotiate a resolution before the order is sought, failing which oppose the order before it is granted.

For a business, publicity in the press about a winding-up petition could cause major reputational damage – even if the petition was in error, unjustified or malicious. With a caveat in place, the Court would provide you with advance notice of an attempt by a third party to commence winding-up proceedings and you would have the chance to protect yourself from adverse publicity and its consequences.

Using caveats in practice

Many of our clients use caveats as part of their risk management approach, and we can advise on how your own organisation can do the same.

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